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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **O.M.P. (I) (COMM) 61/2019**

GKC PROJECTS LIMITED

..... Petitioners

Through Mr Rajshekhar Rao, Mr Sarojanand Jha,
Ms Nandita Bajpai, Ms Saakshi Singh, Advocates.

versus

NATIONAL HIGHWAYS

AUTHORITY OF INDIA & ORS.

..... Respondent

Through Mr Mukesh Kumar, Mr Padma Priya,
Mr Neelica Sharma, Advocates for NHAI.

AND

S3
+

O.M.P. (I) (COMM) 59/2019

GKC PROJECTS LIMITED

..... Petitioners

Through Mr Rajshekhar Rao, Mr Sarojanand Jha,
Ms Nandita Bajpai, Ms Saakshi Singh, Advocates.

versus

NATIONAL HIGHWAYS

AUTHORITY OF INDIA & ORS.

..... Respondent

Through Mr Mukesh Kumar, Mr Padma Priya,
Mr Neelica Sharma, Advocates for NHAI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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26.02.2019

I.A. No. 3014/2019 in O.M.P. (I) (COMM) 61/2019

I.A. No. 2981/2019 in O.M.P. (I) (COMM) 59/2019

1. Allowed, subject to all just exceptions.

2. The applications are disposed of.

O.M.P. (I) (COMM) 61/2019 & I.A. No. 3015/2019

O.M.P. (I) (COMM) 59/2019 & I.A. No. 2982/2019

3. The petitioner has filed the present petitions, *inter alia*, praying as under:-

“Restrain the Respondent No. 1 and/ or its successor, agents, employees and/or assigns or any other person acting on its behalf, from invoking and/ or encashing the Performance Security and the Additional Performance Security, the details of which are provided in para 5 of the petition, till the final adjudication of disputes between the parties under the provisions of the Construction Agreement;

4. It is the petitioner's case that the bank guarantees in question were furnished to respondent no.1 (NHAI) for due performance during the construction period. The petitioner contends that the appointed date has not been declared by NHAI and, therefore, the construction period has not begun.

5. Mr Mukesh Kumar, learned counsel appearing for respondent no.1 states that the petitioner is in default and has not come forward to perform the contract. He states that the petitioner has also failed to sign the Memorandum of the Site Inventory. He also states that at the current stage, no communication has been issued for invoking the bank guarantees. He further states that the petitioner would be given two working days prior notice before any such communication invoking the bank guarantees is issued.

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6. In view of the above statement, this Court does not consider it apposite to pass any orders at this stage.

7. The petitions are disposed of leaving it open for the petitioner to file afresh in case notice is so communicated to the petitioner.

8. Order *dasti* under the signature of Court Master.



VIBHU BAKHRU, J

FEBRUARY 26, 2019

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